IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:13.12.2006

CORAM:

THE HON'BLE MR. JUSTICE P. SATHASIVAM
AND
THE HON'BLE MR. JUSTICE S. TAMILVANAN

WRIT APPEAL No.683 of 2001

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The Chief Executive Officer
Khadi and Village
Industries Board,
Kuralagam Buildings
Madras 108. .. Appellant

vs.

K. Karuvelam .. Respondent

Writ Appeal filed under Clause 15 of the Letters Patent Act against the order of the learned Single Judge dated 25.09.2000 made in WP.No.10496 of 1992 praying Writ of Mandamus to call for the records relating to (i) the proceedings of the Chief Executive Officer, Tamilnadu Khadi and Village Industries Board, Kuralagam, Madras-108 in RC.No.77774/P(1)/85, dated 11.8.1989 in so far as it directs recovery of Rs.91,153.06 from the petitioner by way of adjustment of Death-cum-Retirement Gratuity of Rs. 20,308/- with holding of 1/3 pension of the petitioner and other order which are against the Petitioner (ii) to the proceedings of the Chief Executive Officer, Tamilnadu Khadi and Village Industries Board, Madras in Memo No. 77774/p(1)/85 dated 11.1.1990 in refusing to commute the pension applied for by the petitioner, quash the same and direct the respondents herein to pay the DCRG of Rs.20,308/- and other amounts so far recovered from the petitioner and also the commutation of pension within a short date that may be fixed by this Honourable Court besides directing the respondents herein to continue to pay the full pension to the petitioner without any deduction and (iii) to direct the respondents herein to pay interest at the rate of 18% on the belated payment of arrears of DCRG and pension.

For appellant : Mr. S. Packiaraj

For respondent : No appearance

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JUDGMENT

(Judgement of the Court was delivered by P. SATHASIVAM,J.)

The above writ appeal is directed against the order of the learned single Judge dated 25.09.2000 made in W.P.No.10496 of 1992, in and by which the learned Judge, after finding that the impugned proceedings cannot be sustained on the ground of violation of principles of natural justice as well as lack of jurisdiction as per the Tamil Nadu Pension Rules applicable, allowed the writ petition.

2. The respondent - writ petitioner, though duly served notice from this Court, has not chosen to contest the appeal by engaging a counsel.

3. We heard the learned counsel for the appellant.

4. It is not in dispute that in respect of certain irregularities, which alleged to have taken place during 1980 to 1984, action was sought to be taken in the year 1989, i.e., nearly after four years, that too after the retirement of the petitioner in the year 1985. It is also not in dispute that the writ petitioner was allowed to retire in the year 1985; admittedly, he was neither suspended nor issued any proceedings conveying the intention of the Board that Departmental action will be taken against him for certain events that had taken place during 1980-1984. No doubt, the learned counsel for the appellant pointed out that on the date of retirement, i.e., on 29.11.1985, the writ petitioner consented for recovery of any amount, which may be found to be due from his pension and death-cum-retirement gratuity.

5. Merely, because a letter was obtained from him, particularly on the date of his retirement, without any further proceedings based on the Rules applicable to him, we are of the view that the Board is not entitled to proceed or recover the alleged amount from his pension and retirement benefits, that too after four years. All these aspects have been duly considered and accepted by the learned Judge. In the absence of specific provision in the Service Rule applicable to the writ petitioner and of the admitted factual position that no order like suspension or initiation of proceedings were issued prior to his

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retirement, we are in entire agreement with the conclusion arrived at by the learned Judge. Consequently, the writ appeal fails and the same is dismissed. No costs.

kh

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

TO

THE CHIEF EXECUTIVE OFFICER
KHADI AND VILLAGE INDUSTRIES BOARD,
KURALAGAM BUILDINGS,
MADRAS-108

1 CC TO MR.S. PACKIARAJ, ADVOCATE SR 63487

Judgement in
WA No.683 of 2001

Dt.13.12.2006

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HIGH COURT OF JUDICATURE MADRAS
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